

REMARKS

This amendment is responsive to the Office Action mailed September 1, 2006 in connection with the above-identified patent application. Claims 1, 3, 12, 22 and 25 have been amended. Pending claims 1-31 are in condition for allowance.

Allowable Subject Matter

Claims 3-5, 8, 10, 11, 20, 23, 24, 27 and 30 were objected to as being dependent upon a rejected base claim, but were deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 3 has been placed into independent form and thus is in condition for allowance.

35 U.S.C. § 112 Rejections

Claim 22 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, "said pivot joint" was deemed to lack antecedent basis as claim 22 depends on claim 12 and claim 16 first introduces the pivot joint. The applicants agree and have amended claim 22 to depend from claim 16.

Double Patenting Rejections

Claims 1, 2, 12-15, 16, 17, 25, 28 and 29 were provisionally rejected on the grounds of double patenting as being unpatentable over claims 1-3, 5, 11, 25 and 28 of co-pending Application No. 10/340,247. Claims 1, 12, 13, 25 and 28 were provisionally rejected on the grounds of double patenting as being unpatentable over claims 1, 3, 6, 13, 16 and 17 of co-pending Application No. 10/669,214.

Application No. 10/340,247 has since issued as U.S. Patent No. 7,137,169. Application No. 10/669,214 has since issued as U.S. Patent No. 7,048,804. Independent claims 1, 12 and 25 of the present application have each been amended as described in detail below. Amended claims 1, 12 and 25 have been compared to the issued claims of the '169 and '804 patents. The applicants believe that the double patenting rejection is rendered moot in view of the claim amendments; however, the applicants hereby file a Terminal Disclaimer to overcome the provisional double patenting rejection with respect to Patent No. 7,137,169.

35 U.S.C. § 102 Rejections

Claims 1, 6, 7, 12, 13, 21 and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by European patent application to Prudenziati (EP 1027855 – cited in IDS).

Prudenziati was deemed to disclose a vacuum cleaner having a suction nozzle 15A; a housing 5, a suction fan and motor 37, a dirt collecting receptacle 35, and, a support plate 53, pivotally mounted to the housing. The support plate selectively holds a cleaning sheet 63. A conduit 3 extends between the suction nozzle and the dirt collecting receptacle and a wand 13 extends between the conduit and the nozzle. A dirt cup has an inlet and an outlet, wherein the inlet communicates with an outlet of the suction nozzle and the dirt cup outlet communicates with an inlet of the suction fan and motor assembly. The suction nozzle is pivotably connected to the housing. The support plate has a top surface having at least one clip, 55,57, for securing a cleaning sheet to the support plate. A handle 3B, extends from the housing. A plurality of bristles 17A are mounted to the suction nozzle.

Claim 1 has been amended to recite that the support plate and suction nozzle are pivotable in relation to each other. In contrast, Prudenziati simply does not teach the suction nozzle 15a and support plate 53 being pivotable in relation to each other. Figures 3 and 4 of Prudenziati show the upper shaft 3 pivoting with respect to the support plate 53, but the suction nozzle 15a remains fixed within the support plate. Indeed, if suction nozzle 15a were to pivot, the suction plate 53 would pivot with it and not be able to function properly by remaining flat on the cleaning surface. Accordingly, claim 1, and claims 2, 4-11 dependent thereon are in condition for allowance.

Claims 12-15, 19 and 21 stand rejected under 35 U.S.C. 102(e) as being anticipated by Parker et al. (2004/0045126 – cited in IDS). Parker et al. were deemed to disclose a vacuum cleaner having a support plate 20 selectively holding an electrostatic cleaning sheet 118 via at least one clip 120; a handle 12 pivotably connected to the support plate; a housing 14 mounted to one of the handle and support plate; a suction fan 68 and motor 50 assembly mounted to the housing; a dirt collecting receptacle 80, having a filter 86, mounted to the housing; and a suction nozzle 104 connected to the housing. The dirt collecting receptacle has a dirt cup. A conduit 30,92 communicates the suction nozzle with the housing.

Claim 12 has been amended to recite a flexible conduit communicating the suction nozzle with the housing. The Examiner acknowledged that Prudenziati and Parker et al. do not teach a flexible conduit since claim 3, which teaches a flexible hose, was allowed over Prudenziati and Parker et al. Thus, claim 12 is believed to be in condition over the art of record. Claims 13-24 depend from amended claim 12 and are in condition for allowance.

35 U.S.C. § 103 Rejections

Claims 14, 15, 25, 26 and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Prudenziati in view of Morgan et al. (U.S. Patent No. 6,629,332). The Examiner acknowledged that Prudenziati does not teach a filter detachably mounted in the dirt cup. Morgan et al. were deemed to disclose a filter 562 located within the dirt cup. The Examiner concluded that it would have been obvious to provide Prudenziati with a filter detachably mounted in the dirt cup.

Claim 25 has been amended to recite that the support plate is positioned rearwardly of the suction nozzle (as seen in Figure 1 of the present specification). In contrast, Prudenziati teaches a suction nozzle 15a which extends through an opening 53a in the support plate 53. Thus, the support plate is not located behind the nozzle but rather underneath the nozzle. Accordingly, claim 25 is considered to be in condition for allowance over the art of record.

Claims 14 and 15 depend from amended claim 12, and claims 26-31 depend from amended claim 25 and are also in condition for allowance.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all pending claims remaining in the application (Claims 1-31) are now in condition for allowance.

Respectfully submitted,

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